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5 Nevada State Democratic Party

6
7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE DISTRICT OF NEVADA**

9 DENNIS MONTGOMERY, an individual;
10 and MONTGOMERY FAMILY TRUST, a
California Trust,

11 Plaintiff,

12 vs.

Case No. 3:06-CV-00056-BES-VPC

13 ETREPPID TECHNOLOGIES, L.L.C., a
Nevada Limited Liability Company;
14 WARREN TREPP, an individual;
DEPARTMENT OF DEFENSE of the
15 UNITED STATES OF AMERICA, and
DOES 1 through 10,

16 Defendants
17
18

19 **EMERGENCY MOTION TO INTERVENE AND**
20 **TO UNSEAL COURT RECORDS**

21 COMES NOW proposed Intervenor NEVADA STATE DEMOCRATIC PARTY
22 and moves this Court, pursuant to FRCP Rule 24(b), to permit it to intervene in the above
23 entitled action and to unseal certain records that have been filed in this case that were
24 obtained from the home of Plaintiff MONTGOMERY pursuant to an FBI raid on March
25 1, 2006.

26 /

27 /

28 /

1 This motion is based upon the pleadings and papers on file together with the
2 attached points and authorities, exhibit and declaration.

3 DATED this 3rd day of November , 2006.

4
5 /s/ Richard Segerblom
6 RICHARD SEGERBLOM, ESQ.
7 704 South Ninth Street
8 Las Vegas, NV 89101
9 Attorney for Intervenor
10 Nevada State Democratic Party

11 **POINTS AND AUTHORITIES**

12 **Factual Background**

13 On Tuesday, November 7, 2006, Nevadans will elect their next governor. The
14 Republican nominee, James Gibbons, has been implicated in potential improper conduct
15 during the course of this lawsuit. The proposed Intervenor, the NEVADA STATE
16 DEMOCRATIC PARTY, believes that information that has been submitted to the Court
17 under seal explains that potential improper conduct and if released for public scrutiny,
18 would be important information for the voters of the State of Nevada.

19 Specifically, in a November 1, 2006 article in the Wall Street Journal, a copy of
20 which is attached as Exhibit 1, allegations that computers and disks were seized by the
21 FBI from the home of Plaintiff MONTGOMERY, and that some of this information,
22 which may implicate Mr. Gibbons, has been filed with the Court. Proposed Intervenor
23 NEVADA STATE DEMOCRATIC PARTY requests that said information be
24 immediately unsealed so that the citizens of Nevada know what it contains before they
25 vote in Tuesday's election.

Legal Argument

A. Permissive Intervention Should Be Granted

Federal Rules of Civil Procedure Rule 24(b) provides that “anyone may be permitted to intervene in an action “when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant’s ability to protect that interest” A party desiring to intervene shall bring a motion to intervene pursuant to FRCP Rule 5. FRCP 24(c).

Based upon this Rule, the NEVADA STATE DEMOCRATIC PARTY believes that it should be permitted to intervene in the case at hand. First, on behalf of the voters of the State of Nevada the proposed intervenor claims an interest in the material which was obtained by the FBI from the house of Plaintiff MONTGOMERY because it appears to involve one of the candidates for governor of the State of Nevada, James Gibbons. Second, if this information is not released prior to the November 7, 2006 election, the voters of Nevada will not have full knowledge of what did or did not happen with respect to Candidate James Gibbons and Defendants Etreppid Technologies and Warren Trepp.

Accordingly, pursuant to FRCP Rules 5 and 24(b), the NEVADA STATE DEMOCRATIC PARTY respectfully requests that it be allowed to intervene in the action at hand.

B. Information Filed Under Seal Which Was Obtained from the House of Plaintiff Montgomery is Not Classified and Should Not Be Sealed

According to the Docket Sheet, a copy of which is attached as Exhibit 2, prepared in this case, on Thursday, November 2, 2006, the Court ordered that all documents filed in this case “be submitted to this court for in camera review to determine whether it shall be electronically imaged and/or unsealed.” Proposed Intervenor NEVADA STATE DEMOCRATIC PARTY requests that any documents that were obtained from the house

1 of Plaintiff MONTGOMERY be exempted from this Order and immediately filed in open
2 court for public inspection.

3 The basis for this request is the Wall Street Journal article which sets forth on page
4 6:

5 On March 1, FBI agents raided Mr. Montgomery's home. They seized computers
6 and disks, but didn't find any classified material, court records in the civil suit
7 show. Mr. Montgomery has sought the return of his property, alleging that Mr.

8 Trepp used his political influence in the state to get local FBI agents to intervene in
9 what was essentially a private business and copyright dispute.

10 It is the proposed intervenor's belief that documents that were on the computers and disks
11 have been filed with the Court, and that these documents explain the relationship between
12 Mr. Gibbons and the Defendants. If these documents are not disclosed before the
13 November 7 election, it will violate the voters of Nevada's fundamental right to be fully
14 informed as to the issues and candidates they will be voting on.

15 Accordingly, the NEVADA STATE DEMOCRATIC PARTY respectfully requests
16 that the Court unseal any and all documents which relate to or were obtained from the FBI
17 raid on Plaintiff MONTGOMERY's house.

22 CONCLUSION

23 On November 7, 2006, the voters of the State of Nevada will be asked to select the
24 next governor of their great state. The NEVADA STATE DEMOCRATIC PARTY
25 believes that prior to casting their votes the citizens of Nevada should know as much
26 information as they can about their candidates. Accordingly, the NEVADA STATE
27 DEMOCRATIC PARTY requests that it be permitted to intervene in the lawsuit at hand

1 and that its motion to unseal specific Court records be granted.

2 DATED this 3rd day of November , 2006.

3
4 \s\ Richard Segerblom
5 RICHARD SEGERBLOM, ESQ.
6 704 South Ninth Street
7 Las Vegas, NV 89101
8 Attorney for Intervenor
9 NEVADA STATE DEMOCRATIC
10 PARTY

11
12 **DECLARATION OF RICHARD SEGERBLOM**

13 RICHARD SEGERBLOM, under penalty of perjury, states as follows:

14 1. I am the attorney for Intervenor NEVADA STATE DEMOCRATIC PARTY
15 and make the following representations based upon my personal knowledge.

16 2. Attached hereto as Exhibit 1 is a copy of a Wall Street Journal Article which
17 was published on November 1, 2006. Upon reading this article I checked the online Court
18 Records for Nevada Federal Court and learned about this lawsuit. I further learned that on
19 November 2, 2006, the Court sealed the documents which had been filed in this case
20 pending an in camera review. A copy of the Docket Sheet is attached as Exhibit 2.

21 3. Reading the Wall Street Article and the Court's docket sheet it appears to me
22 that information which was obtained by the FBI from Mr. Montgomery's house has
23 already been declared to be not of national security interest and thus there is no need to
24 have it sealed. If such information has been filed with the Court, it would be appropriate
25 to have it unsealed so that the voters of Nevada can be fully informed prior to next
26 Tuesday's election.

27 3. I believe the subject matter of this motion is extremely important and time
28 sensitive given that the next governor of Nevada will be selected four days from now, and
thus I am asking the Court to give the motion immediate consideration.

1 Pursuant to 28 USC § 1746, I declare under penalty of perjury that the foregoing is
2 true and correct.

3 DATED this 3rd day of November, 2006.
4

5 /s/ Richard Segerblom
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8 Las Vegas, Nevada 89101
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CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of November, 2006, I served the foregoing by
CM/ECF Filing with the United States District Court of Nevada upon Opposing counsel:

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I declare under the penalty of perjury that the foregoing is true and correct.

Executed on November 3, 2006, at Las Vegas, Nevada.

/s/ Jennifer Breeden
Jennifer Breeden, employee of
RICHARD SEGERBLOM, ESQ.
Attorney for Plaintiff

EXHIBIT 1



THE WALL STREET JOURNAL. ONLINE

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November 1, 2006

PAGE ONE

Under Cover

Congressman's Favors for Friend Include Help in Secret Budget

**With Rep. Gibbons's Backing,
An Ex-Trader for Milken
Wins Millions in Contracts**

A Lawsuit's Sensitive Subject

By JOHN R. WILKE
November 1, 2006; Page A1

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On a lavish, weeklong Caribbean cruise last year, software entrepreneur Warren Trepp wine and dined friends and business partners aboard the 560-foot Seven Seas Navigator.

Among Mr. Trepp's guests on the cruise ship: Rep. Jim Gibbons of Nevada and his family. The two men have enjoyed a long friendship that has been good for both. Mr. Trepp has been a big contributor to Mr. Gibbons's campaigns, and the congressman has used his clout to intervene on behalf of Mr. Trepp's company, according to congressional records, court documents and interviews. The tiny Reno, Nev., company, eTreppid Technologies, has won millions of dollars in classified federal software contracts from the Air Force, U.S. Special Operations Command and the Central Intelligence Agency.



Jim Gibbons

At a time of rising concern over lawmakers who direct or "earmark" federal spending to their supporters and business partners, a growing part of the budget is shielded from scrutiny. This is the "black budget," mostly for defense and intelligence, which is disclosed only in the vaguest terms. The ties between Mr. Trepp and Mr. Gibbons raise questions about an influential politician in America's fastest-growing state, and also offer a rare glimpse of contracts in this secret budget being awarded to a politically connected businessman without competitive bidding.

Mr. Gibbons, a 61-year-old Republican, has been elected to five terms in the House and has served on the Intelligence and Armed Services committees. A former combat pilot and decorated Vietnam veteran, he is stepping down at the end of this term and is running for governor of Nevada in next week's election. His wife, Dawn, ran unsuccessfully in the Republican primary for the House seat being vacated by her husband.

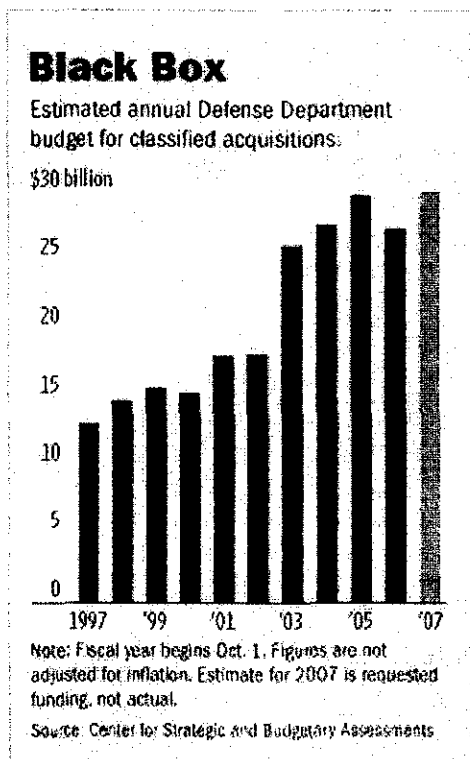
Mr. Gibbons is in a tight and bitterly fought race. He held a double-digit lead until two weeks ago,

when a cocktail waitress said he accosted her after a night of drinking. Mr. Gibbons has forcefully denied the claim, which is unproven, but details of the case have been page-one news in Nevada, and his lead slipped to six points in a weekend poll.

Mr. Trepp, 56, is known on Wall Street as the one-time chief trader for Michael Milken at Drexel Burnham Lambert, which collapsed in 1990 following a criminal investigation of junk-bond abuses.

In an interview Sunday, Mr. Gibbons said he helped open doors in Washington for his friend but did nothing improper. He said eTreppid won its business on the merits. "I had nothing to do with any classified contracts," Mr. Gibbons said. "My connection was to get people to evaluate the technology." Of Mr. Trepp, he said: "He is like a younger brother to me, we have dinner, we play golf, we've been friends for years, and our wives are best friends."

Mr. Trepp said Mr. Gibbons acted at all times in the nation's best interests. "If a member of Congress becomes aware of a technology they believe will be beneficial to the country, don't they have a duty to bring it to the attention of the appropriate governmental agencies?" he asked in an emailed response to questions. "Given my longstanding personal relationship with Jim and his position on the Intelligence Committee, it was natural for me to show him our technology."



Public records show that Mr. Trepp has been a generous supporter of Mr. Gibbons's campaigns. Nevada law prohibits individuals or corporations from giving more than \$10,000 to a candidate in a single election cycle. Companies and partnerships that Mr. Trepp incorporated or controls have given almost \$100,000 to Mr. Gibbons. These entities, many of which list the same mailing address, gave the maximum amount on the same day last year. Mr. Gibbons said the campaign contributions didn't violate Nevada law because they came through different corporate entities.

Mr. Trepp said he believes all the contributions complied with state law. "Whatever contributions I made for Jim's gubernatorial candidacy have nothing to do at all with any federal contracts," he said, adding that the company has no new federal contracts on the way.

Suit's 'Outrageous' Claims

Mr. Gibbons also got other, unreported gifts of cash and casino chips from Mr. Trepp, according to sworn testimony in a civil lawsuit brought by a former executive at eTreppid, Dennis Montgomery. The suit, filed in February in federal court in Reno, involves a dispute between Messrs. Trepp and Montgomery over the rights to certain software code. Both Mr. Gibbons and Mr. Trepp deny unreported payments. Mr. Gibbons called the claims "outrageous," adding, "I am not hiding a damn thing, and Warren is not the kind of person who'd do anything like that."

The suit has raised alarms in Washington because of concern that national secrets will be revealed if it goes to trial. For example, one of the entities that funded eTreppid is code-named Big Safari and is a classified program, documents in the case show. The nation's top intelligence official, John D. Negroponte, recently filed a statement with the court seeking to seal the case. He wrote that after

personally reviewing the matter, he has concluded that disclosure of some information connected with the case could do "exceptionally grave damage" to national security.

The legal dispute, which hasn't been previously reported, sheds light on the shadowy world of black-budget contracting and on Mr. Gibbons's efforts to help fund programs in which eTreppid was involved.

Mr. Gibbons himself touted one earmark in a June 2004 news release. In the release, Mr. Gibbons's office said he "specifically requested" a program that would pay \$3 million for eTreppid's automatic target-recognition technology, a computerized technique for picking out objects from a stream of video images. The release also said the technology had "great potential" for other federal applications, including satellite intelligence gathering.

In the following year, an email from an eTreppid executive to Mr. Trepp and others at the company described a \$1.5 million "plus-up," or earmark, that the company's Washington lobbyist "helped us get through Jim Gibbons." The money was for a subcontract on a secret program, code-named "Eaglevision," involving satellite transmission of high-resolution video images. Mr. Trepp acknowledged getting help from Mr. Gibbons on this contract but added, "The specific contract which resulted from Jim's introduction was for approximately \$1.17 million."

Earmarks have attracted intense scrutiny this year and figured in a series of public-corruption probes. Traditionally, programs are funded based on requests from departments and agencies to Congress, which then appropriates money. Earmarks are different because lawmakers can directly insert them into spending bills.

The eTreppid story adds a twist because, as with the Eaglevision contract, some programs that got funded with Mr. Gibbons's help are classified. The U.S. Constitution says "a regular statement and account of receipts and expenditures of all public money shall be published," but since the Cold War era a growing number of programs for national defense or intelligence have been listed in the federal budget with only vague descriptions. This black-budget spending has more than doubled in inflation-adjusted dollars since 1995, to more than \$30.1 billion in the current fiscal year, according to the Center for Strategic and Budgetary Assessments, a nonpartisan Washington policy group.

"The problem with earmarks is that they don't go through the normal oversight process -- a problem that is much worse in black programs, which have less congressional oversight and obviously no public scrutiny," says Steven Kosiak, a researcher at the center.

Source of Secret Funds

One source of secret funds for eTreppid and other companies is the Special Operations Command. Based in Tampa, Fla., the command fields special-operations military and intelligence forces



Image Photo Services/Amage Group

Nevada Rep. Jim Gibbons, circled at top, and Warren Trepp, circled at bottom, with families, business partners and friends on a Caribbean cruise last year. To the right of Mr. Trepp is actor Patrick Swayze and, behind him, actor John O'Hurley of 'Seinfeld' fame.

around the globe and is at the forefront of the fight in Iraq and Afghanistan. It has also been rocked by a criminal investigation of a former contracting officer. The investigation is continuing, according to a spokesman for the U.S. attorney in Tampa.

In a separate inquiry, Pentagon investigators last year found evidence that the command kept special accounts for "unrequested congressional plus-ups," or earmarks. The plus-ups were used to reward lawmakers with projects in their districts, according to declassified investigators' notes reviewed by The Wall Street Journal. The Pentagon's inspector general closed the inquiry after finding that the accounts weren't illegal.

Mr. Trepp said eTreppid won classified work on its merits and already had a number of government contracts before Mr. Gibbons starting making introductions on the company's behalf. Mr. Gibbons's campaign manager, Robert Uithoven, said the congressman has been a strong supporter of new defense technology, particularly after 9/11. But he said there was "no quid pro quo whatsoever" for contributions from contractors. And while some funding was secret, "it was because of the sensitive nature of the work," Mr. Uithoven said, not to avoid public scrutiny.

For Mr. Trepp, eTreppid's success at winning multimillion-dollar federal contracts marks a comeback from his Drexel days. He sat at Mr. Milken's right arm on the firm's famous X-shaped trading desk in Beverly Hills, sometimes trading as much as \$2 billion in securities a day. Federal regulators filed a civil securities-fraud claim against him in 1995, and a Securities and Exchange Commission administrative judge found that his violations had been "egregious, recurring and intentional." But she dismissed the proceeding against him, noting that the allegations were old and he had left the securities business years earlier.

Mr. Trepp, a Drexel partner, later paid an estimated \$19 million to help settle civil claims against the firm, without admitting culpability in the case. But he emerged with most of his fortune intact, and landed on the shores of Lake Tahoe, in Nevada, where he played high-stakes baccarat, started a family and lived in a waterfront compound he later sold for \$32 million. He funded a community-philanthropy foundation in Lake Tahoe and invested in films and Broadway plays. Mr. Trepp's latest show, "The Times They Are A-Changin'," choreographed by Twyla Tharp with music by Bob Dylan, opened last week on Broadway.

Mr. Trepp jumped into the technology boom in 1998, founding eTreppid in Reno with Mr. Montgomery, a software developer who served as chief technology officer, according to court papers. Its first product converted casino-surveillance tapes into digital data that could be stored and searched, based on data-compression and pattern-recognition software written by Mr. Montgomery. It was tested in casinos in Reno and Las Vegas and was eventually licensed to a unit of General Electric Co., in 2002.

By the following year, eTreppid shifted its focus to winning federal contracts for its data-compression technology. At the time, military and intelligence officials were looking for software that could store and search video taken by unmanned aircraft such as the Predator. In early 2003, Mr. Montgomery was granted a security clearance and asked to search for specific people, vehicles and other objects in battlefield video images, court documents show.

The largest publicly known contract award to eTreppid was noted in a routine announcement in 2004 by the Special Operations Command. The command described it as an "indefinite-delivery/indefinite quantity...sole source," or no-bid, contract, with a value of as much as

\$30 million.

Arranging Meetings

Between 2003 and 2005, Mr. Gibbons repeatedly arranged meetings and demonstrations for eTreppid executives with top Air Force generals, both in Washington and Reno, according to congressional staff and company documents.

On Sept. 25, 2003, the congressman had breakfast with the Air Force vice chief of staff, where he pitched the promise of eTreppid's technology, according to a memo from a Gibbons staff member to an eTreppid executive. Also in September, Mr. Gibbons, in an email to an eTreppid executive, offered to try to set up a meeting with the National Security Agency. It isn't known if the meeting took place.

In May 2004, a lobbyist acting for eTreppid in Washington reported in another email, "Congressman Gibbons certainly came through for eTreppid!" She said Mr. Gibbons secured a \$7 million appropriation for the company, although she warned in the email that the amount might be reduced as the legislation moved along. The next month Mr. Gibbons publicly announced the \$3 million appropriation, which was directed to eTreppid for its video compression and target-recognition technology. The project was among several in Nevada that Mr. Gibbons said that he had specifically requested.

House records show that in 2004, the lobbyist pushed for eTreppid's interests in the defense-authorization and intelligence bills. Mr. Gibbons served on both of those committees. Mr. Trepp says eTreppid never paid for a lobbyist in Washington.

eTreppid executives even sought help from Mr. Gibbons on routine problems. In 2004, they asked for his help in getting a top official at the Department of Homeland Security to return their phone calls, according to company emails reviewed by The Wall Street Journal. And last year, an eTreppid executive, Patty Gray, wrote to Mr. Gibbons that the company hadn't yet received funds in a "congressional appropriation that you helped us with." Mr. Gibbons immediately assigned a staff member to prod the General Services Administration for the funds, according to a later email.

On the Caribbean cruise in March last year, photos taken on board and at the Atlantis casino in the Bahamas show the Gibbons and Trepp families together at dinners and parties. Also on the cruise were actors Patrick Swayze and John O'Hurley, who played the role of J. Peterman in the "Seinfeld" television series. The group flew back to Nevada after the cruise on a chartered Boeing 727 paid for by Mr. Trepp.

Mrs. Gibbons says she helped pay for the trip by giving a \$1,654 check to Mr. Trepp's wife and putting \$1,508 on her credit card for on-board expenses. An agent for the cruise line estimated the cost of a comparable cruise for a family of three at more than \$10,000, excluding airfare.

Required Disclosure

Federal ethics rules require a public disclosure by members of Congress when they receive gifts or make reimbursements. Mr. Gibbons says he believed the cruise was an exception because he and Mr. Trepp are longtime friends. Kenneth Gross, a former Federal Election Commission attorney now at Skadden, Arps, Slate, Meagher & Flom LLP in Washington, says there is a friendship exemption but anything valued at more than \$250 must get written approval from the House ethics

committee and in most cases be publicly reported.

Documents make clear that the government found some of eTreppid's work valuable. In a letter to Mr. Montgomery's lawyer earlier this summer, after the breakup with Mr. Trepp, a top Air Force lawyer asked that Mr. Montgomery urgently return to work on technology he had been developing for the military, even as the parties in the suit bitterly argued over who owned the technology.

In the civil suit, Mr. Montgomery says he was pushed out of the company by Mr. Trepp in January of this year when he refused to provide his source code to Mr. Trepp. Mr. Montgomery was using the code on highly classified government work, the suit says. Mr. Trepp, in turn, charged that Mr. Montgomery stole classified tapes from eTreppid when he left. Agents in the local office of the Federal Bureau of Investigation began to look into the matter.

On March 1, FBI agents raided Mr. Montgomery's home. They seized computers and disks, but didn't find any classified material, court records in the civil suit show. Mr. Montgomery has sought the return of his property, alleging that Mr. Trepp used his political influence in the state to get local FBI agents to intervene in what was essentially a private business and copyright dispute. Mr. Trepp denies Mr. Montgomery's claims and says he will fight the lawsuit.

Court proceedings on the theft allegation and the FBI raid have taken place in secret. The case is described in broad terms in the pending civil suit, which the government has asked to seal as well.

URL for this article:

<http://online.wsj.com/article/SB116234941031409783.html>

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EXHIBIT 2

**United States District Court
District of Nevada (Reno)
CIVIL DOCKET FOR CASE #: 3:06-cv-00056-VPC**

Montgomery et al v. eTrepid Technologies et al
Assigned to:
Referred to: Magistrate Judge Valerie P. Cooke
Demand: \$75,000,000
Related Case: 3:06-cv-00145-VPC
Cause: 17:504 Copyright Infringement

Date Filed: 01/31/2006
Jury Demand: Plaintiff
Nature of Suit: 820 Copyright
Jurisdiction: Federal Question

Plaintiff

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an Individual

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Warren Trepp
an Individual

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David A. Jakopin
(See above for address)
ATTORNEY TO BE NOTICED

J. S Peek
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Jonathan D. Butler
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Date Filed	#	Docket Text
01/31/2006	<u>1</u>	COMPLAINT for Copyright Infringement; Copy Right Infringement by Distribution Declaratory Judgment; et al against all defendants (Filing fee \$ 250 receipt number 98651), filed by Dennis Montgomery. Certificate of Interested Parties due by 2/10/2006. (Attachments: # <u>1</u> Civil Cover Sheet)(Logar, Ronald) (Entered: 01/31/2006)
02/01/2006		Case assigned to Judge Brian E. Sandoval and Valerie P. Cooke. (BLG) (Entered: 02/01/2006)
02/02/2006	<u>2</u>	SUMMONS Issued as to D, Etreppid Technologies. (SA,) (Entered: 02/02/2006)
02/02/2006	<u>3</u>	SUMMONS Issued as to D, Warren Trepp. (SA,) (Entered: 02/02/2006)
02/03/2006	<u>4</u>	ACKNOWLEDGEMENT OF SERVICE Executed as to <u>2</u> Summons Issued. /s/RJL Acknowledgement filed by Plaintiff Dennis Montgomery. (Logar, Ronald) (Entered: 02/03/2006)
02/03/2006	<u>5</u>	ACKNOWLEDGEMENT OF SERVICE Executed as to <u>3</u> Summons Issued. to Warren Trepp Acknowledgement filed by Plaintiff Dennis Montgomery. (Logar, Ronald) (Entered: 02/03/2006)
02/03/2006	<u>6</u>	CERTIFICATE OF SERVICE by Plaintiff Dennis Montgomery re <u>2</u> Summons Issued, <u>3</u> Summons Issued, <u>4</u> Acknowledgment of Service, <u>5</u> Acknowledgment of Service. to eTreppid and Warren Trepp (Logar, Ronald) (Entered: 02/03/2006)
02/21/2006	<u>7</u>	AMENDED COMPLAINT with Jury Demand adding US Dept of Defense against all defendants, filed by Dennis Montgomery. Certificate of Interested Parties due by 3/3/2006.(Logar, Ronald) (Entered: 02/21/2006)
02/21/2006	<u>8</u>	PROPOSED SUMMONS to be issued to Department of Defense, filed by Plaintiff Dennis Montgomery. (Logar, Ronald) (Entered: 02/21/2006)
02/21/2006	<u>9</u>	First VERIFIED PETITION for Permission to Practice Pro Hac Vice with attached certificate of good standing submitted by attorney Michael James Flynn, (Filing fee \$ 175 receipt number 121242) by Plaintiff Dennis Montgomery. (Logar, Ronald) (Entered: 02/21/2006)
02/21/2006	<u>10</u>	First VERIFIED PETITION for Permission to Practice Pro Hac Vice with attached certificate of good standing submitted by attorney Philip H Stilman, (Filing fee \$ 175 receipt number 121273) by Plaintiff Dennis Montgomery. (Logar, Ronald) (Entered: 02/21/2006)
02/22/2006	<u>11</u>	SUMMONS <u>8</u> Issued as to U.S. Defense, Department Of. (BLG) (Entered: 02/22/2006)
02/22/2006	<u>12</u>	NOTICE regarding designation of Local Counsel for attorneys Michael J. Flynn, Esq.; Philip H. Stillman, Esq. and Ronald J. Logar, Esq. Plaintiffs Dennis Montgomery, Montgomery Family Trust. Due, designation forms

		attached. Approval of V.P.'s {9} & {10} shall be held in abeyance pending approval of designation of local counsel. (BLG) (Entered: 02/22/2006)
02/24/2006	<u>16</u>	DESIGNATION of Local Counsel <i>for Michael Flynn</i> by Ronald J Logar on behalf of Plaintiffs Dennis Montgomery, Montgomery Family Trust. (Logar, Ronald) Per counsel, filed in error; corrected document re-filed; see Dkt. #17. (AF,) (Entered: 02/24/2006)
02/24/2006	<u>17</u>	DESIGNATION of Local Counsel <i>for Michael Flynn</i> by Ronald J Logar on behalf of Plaintiffs Dennis Montgomery, Montgomery Family Trust. (Logar, Ronald) (Entered: 02/24/2006)
02/24/2006	<u>18</u>	DESIGNATION of Local Counsel <i>for Mr. Stillman</i> by Ronald J Logar on behalf of Plaintiff Dennis Montgomery. (Logar, Ronald) (Entered: 02/24/2006)
02/27/2006	<u>19</u>	<u>18</u> DESIGNATION of Local Counsel as to Philip H. Stillman, local cnsl for Plaintiffs, is APPROVED. Signed by Clerk Lance S Wilson on 2/27/06. (WJ,) Modified on 3/1/2006 (WJ,). Delete Judge and enter Clerk (Entered: 03/01/2006)
02/27/2006	<u>20</u>	ORDER re <u>9</u> First VERIFIED PETITION for Permission to Practice Pro Hac Vice <i>with attached certificate of good standing</i> submitted by attorney Michael James Flynn, (Filing fee \$ 175 receipt number 121242) filed by Dennis Montgomery, is approved. Signed by Judge Brian E. Sandoval on 2/27/06. (WJ,) (Entered: 03/01/2006)
02/27/2006	<u>21</u>	<u>17</u> DESIGNATION of Local Counsel as to local counsel Ronald J. Logar, counsel for Plaintiffs, is APPROVED. Signed by Clerk Lance S Wilson on 2/27/06. (WJ,) (Entered: 03/01/2006)
03/01/2006	<u>22</u>	First VERIFIED PETITION for Permission to Practice Pro Hac Vice submitted by attorney Jerry M. Snyder, Esq. for attorney David A. Jakopin, Esq., (Filing fee \$ 175 receipt number 130604). (Snyder, Jerry) (Entered: 03/01/2006)
03/01/2006	<u>23</u>	DESIGNATION of Local Counsel <i>/Resident Attorney for David Jakopin, Esq.</i> by Jerry M Snyder on behalf of Defendants eTreppid Technologies, Warren Trepp. (Snyder, Jerry) (Entered: 03/01/2006)
03/01/2006	<u>24</u>	Second VERIFIED PETITION for Permission to Practice Pro Hac Vice submitted by attorney Jerry Snyder, Esq., resident attorney for Jonathan Butler, Esq., (Filing fee \$ 175 receipt number 130685). (Snyder, Jerry) (Entered: 03/01/2006)
03/01/2006	<u>25</u>	DESIGNATION of Local Counsel <i>/Resident Attorney for Jonathan Butler, Esq.</i> by Jerry M Snyder on behalf of Defendants eTreppid Technologies, Warren Trepp. (Snyder, Jerry) (Entered: 03/01/2006)
03/02/2006	<u>26</u>	ERRATA to <u>23</u> Designation of Local Counsel, <u>22</u> First VERIFIED PETITION for Permission to Practice Pro Hac Vice submitted by attorney Jerry M. Snyder, Esq. for attorney David A. Jakopin, Esq., (Filing fee \$ 175

		receipt number 130604); filed by Defendants eTreppid Technologies, Warren Trepp. (Snyder, Jerry) (Entered: 03/02/2006)
03/02/2006	<u>27</u>	CERTIFICATE OF SERVICE by Plaintiff Dennis Montgomery re <u>7</u> Amended Complaint, <u>11</u> Summons Issued. <i>Served United States Attorney</i> (Logar, Ronald) Per counsel, modified on 3/2/2006 to link to #7 (AF,). (Entered: 03/02/2006)
03/02/2006	<u>28</u>	CERTIFICATE OF SERVICE by Plaintiff Dennis Montgomery re <u>7</u> Amended Complaint, <u>11</u> Summons Issued. <i>to United States Government</i> (Logar, Ronald) (Entered: 03/02/2006)
03/02/2006	<u>30</u>	DESIGNATION of Local Counsel <u>25</u> of J. Stephen Peek for Entreppid Technologis and Warrent Trepp, is APPROVED. Signed by Clerk Lance S Wilson on 3/2/06. (WJ,) (Entered: 03/03/2006)
03/03/2006	<u>29</u>	DESIGNATION of Local Counsel <u>23</u> of Jerry M. Snyder for Etreppid Technologis and Warren Trepp, is APPROVED. Signed by Clerk Lance S Wilson on 3/2/06. (WJ,) (Entered: 03/03/2006)
03/07/2006	<u>31</u>	ORDER granting <u>9</u> <u>10</u> <u>22</u> <u>24</u> Verified Petition for Permission to Practice Pro Hac Vice. Signed by Judge Brian Sandoval.(CL) Modified on 7/25/2006 to include no image attached (LG,). (Entered: 03/07/2006)
03/13/2006	<u>32</u>	RESPONSE to filed by Plaintiffs Dennis Montgomery, Montgomery Family Trust. <i>to [13] Defendants' Motion to Dismiss</i> Replies due by 3/27/2006. (Attachments: # <u>1</u> Declaration of Dennis Montgomery# <u>2</u> Declaration Of Philip Stillman)(Logar, Ronald) Modified on 3/15/2006 to link to #13 (AF,). (Entered: 03/13/2006)
03/17/2006	<u>33</u>	MOTION for Protective Order <i>and to Seal Pleadings & Records</i> by Defendants eTreppid Technologies, Warren Trepp. (Snyder, Jerry) (Entered: 03/17/2006)
03/17/2006	<u>34</u>	DECLARATION of Jerry M. Snyder ISO Motion for Protective Order re <u>33</u> MOTION for Protective Order <i>and to Seal Pleadings & Records</i> ; filed by Defendants eTreppid Technologies, Warren Trepp. (Attachments: # <u>1</u> Exhibit A (ETreppid First Amended Complaint)# <u>2</u> Exhibit B (Transcript Excerpts 2-7-06))(Snyder, Jerry) (Entered: 03/17/2006)
04/05/2006	<u>39</u>	RESPONSE to <u>33</u> MOTION for Protective Order <i>and to Seal Pleadings & Records</i> ; filed by Plaintiffs Dennis Montgomery, Montgomery Family Trust. <i>and declaration of Eric Pulver</i> (Attachments: # <u>1</u>)(Logar, Ronald) (Entered: 04/05/2006)
04/05/2006	<u>40</u>	EXHIBIT(s) <i>to Eric Pulver's Declaration</i> to <u>39</u> Response to Motion for Protective Order; filed by Plaintiffs Dennis Montgomery, Montgomery Family Trust. (Logar, Ronald) (Entered: 04/05/2006)
04/06/2006	<u>41</u>	NOTICE of Appearance by attorney Carlotta P Wells on behalf of Defendant U.S. Defense, Department Of. (Wells, Carlotta) (Entered: 04/06/2006)

04/10/2006	<u>42</u>	MINUTE ORDER IN CHAMBERS of the Honorable Valerie P. Cooke, U.S. Magistrate Judge on 4/10/2006. By Deputy Clerk: LGM. RE: <u>33</u> MOTION for Protective Order <i>and to Seal Pleadings & Records</i> filed by Warren Trepp, eTreppid Technologies. A Motion Hearing is set for 5/11/2006 09:00 AM in Reno Courtroom 1 before Magistrate Judge Valerie P. Cooke. IT IS ORDERED that out-of-state and out-of-town counsel shall be allowed to appear telephonically for this hearing. Local counsel, pursuant to Local Rule IA 10-2, shall be excused from this hearing. All other counsel must be present for this hearing. Out-of-state and out-of-town counsel shall notify Lisa Mann (775)686-5653 two (2) days prior to the hearing to advise her of the telephone number where counsel may be reached for the hearing.(no image attached) (LGM,) (Entered: 04/10/2006)
04/11/2006	<u>43</u>	RESPONSE TO ETREPPID EX PARTE MOTION (Doc. #s [35], [36]) filed by Plaintiffs Dennis Montgomery, Montgomery Family Trust. (Logar, Ronald) Modified on 4/14/2006 to link to #35 & #36 (AF,). (Entered: 04/11/2006)
04/21/2006	<u>47</u>	Unopposed MOTION for Extension of Time to File Responsive Pleading by Defendant U.S. Defense, Department Of. (Wells, Carlotta) (Entered: 04/21/2006)
04/24/2006	<u>48</u>	Mail Returned as Undeliverable re [42] Minute Order Setting Hearing on Motion,, addressed to Michael J Flynn, not deliverable as address, return to sender.. (WJ,) Modified on 4/24/2006 (WJ,). Checked for Flynn address as it the same on Defendant's address for him. (Entered: 04/24/2006)
05/08/2006	<u>49</u>	ORDER granting <u>47</u> Motion for Extension of Time for US Dept. of Defense to file a responsive pleading. U.S. Defense Department answer due 6/23/2006. Signed by Judge Valerie P. Cooke on 5/8/06. (DN) (Entered: 05/08/2006)
05/15/2006	<u>50</u>	First MOTION to Consolidate Cases <i>00056 and 00145</i> by Plaintiffs Dennis Montgomery, Montgomery Family Trust. Responses due by 6/2/2006. (Attachments: # <u>1</u> Affidavit to Consolidate 00056 and 00145)(Logar, Ronald) (Entered: 05/15/2006)
05/30/2006	<u>52</u>	Mail Returned as Undeliverable, Attempted not know addressed to Jonathan D. Butler., at to doc #42 dtd 4/10/06 (SA,) (Entered: 05/31/2006)
06/01/2006	<u>53</u>	RESPONSE to <u>50</u> First MOTION to Consolidate Cases <i>00056 and 00145</i> ; filed by Defendants eTreppid Technologies, Warren Trepp. Replies due by 6/15/2006. (Snyder, Jerry) (Entered: 06/01/2006)
06/02/2006	<u>54</u>	RESPONSE to <u>50</u> First MOTION to Consolidate Cases <i>00056 and 00145</i> ; filed by Defendant U.S. Defense, Department Of. Replies due by 6/16/2006. (Wells, Carlotta) (Entered: 06/02/2006)
06/14/2006	<u>55</u>	REPLY to Response to <u>50</u> First MOTION to Consolidate Cases <i>00056 and 00145</i> ; filed by Plaintiffs Dennis Montgomery, Montgomery Family Trust.

		(Logar, Ronald) (Entered: 06/14/2006)
06/21/2006	<u>56</u>	MOTION to Dismiss by Defendant U.S. Defense, Department Of. Responses due by 7/9/2006. (Attachments: # <u>1</u> Exhibit 1)(Wells, Carlotta) (Entered: 06/21/2006)
06/26/2006	<u>57</u>	First MOTION to Continue <i>Status Conference (unopposed)</i> & to submit <i>draft Protective Orders</i> by Defendants eTreppid Technologies, Warren Trepp. Responses due by 7/14/2006. (Snyder, Jerry) (Entered: 06/26/2006)
06/27/2006	<u>58</u>	MINUTE ORDER IN CHAMBERS of the Honorable Valerie P. Cooke, U.S. Magistrate Judge on 6/27/2006. Pursuant to the requests of the parties, the status conference set for June 29, 2006 is vacated and will be rescheduled to a date after July 9, 2006. (DN) (Entered: 06/27/2006)
06/28/2006	<u>59</u>	First MOTION to Continue <i>status conference until after July 9, 2006</i> by Plaintiffs Dennis Montgomery, Montgomery Family Trust. Responses due by 7/16/2006. (Logar, Ronald) (Entered: 06/28/2006)
07/10/2006	<u>60</u>	RESPONSE to <u>56</u> MOTION to Dismiss; filed by Defendants eTreppid Technologies, Warren Trepp. <i>Notice of Non-Opposition</i> Replies due by 7/24/2006. (Snyder, Jerry) (Entered: 07/10/2006)
07/12/2006	<u>61</u>	First UNOPPOSED MOTION Extension of Time to and including August 14, 2006 re <u>56</u> MOTION to Dismiss by Plaintiffs Dennis Montgomery, Montgomery Family Trust. (Logar, Ronald) (Entered: 07/12/2006)
07/19/2006	<u>62</u>	ORDER re <u>61</u> First UNOPPOSED MOTION Extension of Time to and including August 14, 2006: Ordered that Dennis Montgomery's unopposed motion to file oppositions to the Department of Defense's motion to dismiss in the above captioned cases on or before 8/14/06, shall be granted. Signed by Judge Brian E. Sandoval on 7/19/06. (WJ,) (Entered: 07/20/2006)
07/26/2006	<u>63</u>	STIPULATION <i>Order Allowing Transcript of 05/11/06 hearing to be prepared under seal</i> by Plaintiffs Dennis Montgomery, Montgomery Family Trust. (Logar, Ronald) (Entered: 07/26/2006)
07/28/2006	<u>64</u>	ORDER ON STIPULATION re <u>63</u> proposed Stipulation: Ps and Ds and D DoD, that the transcript of 5/11/06, hearing on eTreppid's mtn for protective order and to seal pleadings and records, shall be prepared under seal. Signed by Judge Valerie P. Cooke. (WJ,) (Entered: 07/31/2006)
08/07/2006	<u>65</u>	Second UNOPPOSED MOTION extension of time to file oppositions to the Department of Defense's (hereinafter ?DoD?) motions to dismiss re <u>60</u> Response to Motion to Dismiss, <u>56</u> MOTION to Dismiss <i>to including September 15, 2006</i> by Plaintiffs Dennis Montgomery, Montgomery Family Trust. (Logar, Ronald) (Entered: 08/07/2006)
08/09/2006	<u>66</u>	ORDER: Ord Montgomery unopposed mtn to file oppos to DoD mtns to dismiss in these case by 9/15/06 is granted. Signed by Judge Brian E. Sandoval on 8/7/06. (WJ,) (Entered: 08/10/2006)

08/21/2006	<u>67</u>	MINUTE ORDER IN CHAMBERS of the Honorable Valerie P. Cooke, U.S. Magistrate Judge on 8/21/2006. By Deputy Clerk: LGM. Pursuant to this Court's order <u>58</u> , A Status Conference is set for 9/26/2006 02:00 PM in Reno Courtroom 1 before Magistrate Judge Valerie P. Cooke. IT IS ORDERED that out-of-town and out-of-state counsel shall be permitted to appear telephonically and shall notify Lisa Mann at (775)686-5653 two (2) days prior with a telephone number at which they can be reached for the hearing. Local counsel, pursuant to Local Rule IA 10-2, shall be excused from this hearing. All other counsel must be present. (no image attached) (LGM,) (Entered: 08/21/2006)
09/01/2006	<u>69</u>	MINUTE ORDER IN CHAMBERS of the Honorable Brian E. Sandoval, U.S. District Judge on 9/1/2006: ORD Ds mtn for leave to amend mtn to dismiss or to respond to first amended complaint [35] is granted with leave to file a response to the First Amended Complaint; That Ds mtn to dismiss [13] is denied as moot. (WJ,) (Entered: 09/05/2006)
09/19/2006	<u>73</u>	First MOTION Request for Ruling on How to Handle Sealed Case in Oppositions <i>also filed in 3:06-cv-00145</i> by Plaintiffs Dennis Montgomery, Montgomery Family Trust. Responses due by 10/7/2006. (Logar, Ronald) (Entered: 09/19/2006)
09/19/2006	<u>74</u>	MOTION for Protective Order <i>with Exhibits 1 - 7</i> by Defendants eTreppid Technologies, Warren Trepp. (Attachments: # <u>1</u> Exhibit 1 - to Etreppid Mo. for Protective Order# <u>2</u> Exhibit 1 - to Etreppid Mo. for Protective Order# <u>3</u> Exhibit 2 - to Etreppid Mo. for Protective Order# <u>4</u> Exhibit 3 - to Etreppid Mo. for Protective Order# <u>5</u> Exhibit 4 - to Etreppid Mo. for Protective Order# <u>6</u> Exhibit 5 - to Etreppid Mo. for Protective Order# <u>7</u> Exhibit 6 - to Etreppid Mo. for Protective Order# <u>8</u> Exhibit 7 - to Etreppid Mo. for Protective Order)(Snyder, Jerry) (Entered: 09/19/2006)
09/20/2006	<u>75</u>	AFFIDAVIT of AMENDED PROOF OF SERVICE OF NOTICE OF MOTION & MOTION BY ETREPPID TECHNOLOGIES, LLC FOR PROTECTIVE ORDER re <u>74</u> MOTION for Protective Order <i>with Exhibits 1 - 7</i> ; filed by Defendants eTreppid Technologies, Warren Trepp. (Snyder, Jerry) (Entered: 09/20/2006)
09/25/2006	<u>83</u>	MOTION for Protective Order by Defendant U.S. Defense, Department Of. (Attachments: # <u>1</u> Exhibit 1# <u>2</u> Exhibit 2# <u>3</u> Exhibit 3)(Wells, Carlotta) (Entered: 09/25/2006)
09/26/2006	<u>84</u>	MINUTES OF PROCEEDINGS - Status Conference held on 9/26/2006 before Judge Valerie P. Cooke. Ctrm Administrator: LGM; Pla Counsel: <i>Michael Flynn</i> ; Def Counsel: <i>Jerry Snyder and Carlotta Wells</i> ; Court Reporter/FTR #: 2:09:44 - 3:29:55; Time of Hearing: 2:09 p.m. The Court addresses the parties regarding the sequence of events concerning discovery and the status of this action. The Court hears from the parties concerning how to proceed in this case and in case 3:06-CV-0145-BES-VPC. All discovery including the outstanding discovery between eTreppid Technologies, LLC and Dennis Montgomery, et al., shall be STAYED. The

		Court allows the subpoena of Mr. Montgomery's current employer. The parties shall complete the briefing on pending motions for protective order <u>74</u> and <u>83</u> in this action. Opposing memoranda due by 10/24/2006. Reply memoranda due by 11/9/2006. See attached order for specifications. (LGM,) (Entered: 09/29/2006)
10/06/2006	<u>85</u>	TRANSCRIPT of <u>84</u> Status Conference held on 9/26/06 before Judge VALERIE P. COOKE. Court Reporter: KATHRYN M. FRENCH. (no image attached) (DRM,) (Entered: 10/10/2006)
10/10/2006	<u>86</u>	MOTION by Plaintiffs Dennis Montgomery, Montgomery Family Trust. Responses due by 10/28/2006. (Attachments: # <u>1</u> Exhibit 1)(Logar, Ronald) (Entered: 10/10/2006)
10/10/2006	<u>87</u>	RESPONSE to filed by Plaintiffs Dennis Montgomery, Montgomery Family Trust. <i>Opposition to Motion to Dismiss</i> Replies due by 10/24/2006. (Logar, Ronald) (Entered: 10/10/2006)
10/12/2006	<u>88</u>	AFFIDAVIT of Service re <u>86</u> MOTION; filed by Plaintiffs Dennis Montgomery, Montgomery Family Trust. (Logar, Ronald) (Entered: 10/12/2006)
10/18/2006	<u>89</u>	MOTION to Extend Time regarding dispositive matter re <u>83</u> MOTION for Protective Order by Plaintiffs Dennis Montgomery, Montgomery Family Trust. (Logar, Ronald) (Entered: 10/18/2006)
10/19/2006	<u>90</u>	NOTICE by Plaintiffs Dennis Montgomery, Montgomery Family Trust re <u>89</u> MOTION to Extend Time regarding dispositive matter re <u>83</u> MOTION for Protective Order. <i>Notice of Withdrawal of Motion</i> (Logar, Ronald) (Entered: 10/19/2006)
10/19/2006	<u>91</u>	EX PARTE MOTION <i>FOR EXTENSION OF TIME</i> by Plaintiffs Dennis Montgomery, Montgomery Family Trust. (Logar, Ronald) (Entered: 10/19/2006)
10/20/2006	<u>92</u>	ORDER: Montgomery ex parte mtn <u>91</u> for a extn of time to file oppositions to DoDs mtn for protective order <u>83</u> and D, Etreppid mtn for protective order <u>74</u> by 11/1/06 is granted. Signed by Judge Valerie P. Cooke on 10/20/06. (WJ,) (Entered: 10/24/2006)
11/02/2006	<u>95</u>	ORDER OF RECUSAL. This action is referred to Chief Judge Philip M. Pro for reassignment. Signed by Judge Brian E. Sandoval. (CLL) (Entered: 11/02/2006)
11/02/2006	<u>97</u>	ORDER finding as moot [96] Ex Parte Motion re hearing on how to treat sealed material. The Montgomerys shall file the opposition to the Department of Defense's motion for protective order and eTreppid's motion for protective order under seal by hand-delivering the opposition to the Clerk of the Court. The Clerk of the Court is directed that the opposition shall be submitted to this court for in camera review to determine whether it shall be electronically imaged and/or unsealed. Until further order of this court, no other parties to this action shall be provided copies of the

document. Signed by Judge Valerie P. Cooke on 11/2/06. (DN,) (Entered: 11/02/2006)

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